

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE LE-NATURE'S INC,
COMMERCIAL LITIGATION**

) **MDL No. 2021**
) **Civil Action No.:**
) **2:09-mc-00162-DWA**

The CIT Group/Equipment Financing, Inc.,
Plaintiff,

vs.

) **Civil Action No.:**
) **2:09-cv-00432-DWA**

**Krones, Inc., a Wisconsin corporation; Krones
Aktiengesellschaft, a German corporation; Heinz
Sommer; Volker Kronseder; and Gregory
Podlucky,**

Defendants.

JOINT MOTION FOR DISMISSAL OF ALL CLAIMS

Plaintiff The CIT Group/Equipment Financing, Inc. ("CIT") and Defendants Krones, Inc., Krones A.G., Heinz Sommer, and Volker Kronseder (collectively "the Moving Defendants,"), by and through their undersigned counsel of record, hereby jointly move for the entry of an Order dismissing all claims asserted by CIT in its Complaint. In support of this Motion, CIT and the Moving Defendants respectfully state as follows:

1. CIT and the Moving Defendants have entered into a settlement agreement that resolves all claims asserted against the Moving Defendants by CIT.
2. A default was entered against Defendant Gregory Podlucky on January 13, 2009. On April 8, 2009, Podlucky filed a Motion to Dismiss Party Gregory Podlucky, Dismiss Complaint, or in the Alternative, Stay Proceedings as to Gregory Podlucky ("Podlucky's Motion").

3. On April 14, 2009, this action was transferred to the Western District of Pennsylvania pursuant to an April 9, 2009 Order by the United States Judicial Panel on Multidistrict Litigation. No action had been taken in response to Podlucky's Motion by either the Court or the parties.

4. After transfer to the Western District of Pennsylvania the Court held a Status Conference on May 19, 2009 during which it ordered, among other things, that all parties re-file any previously filed motions no later than June 19, 2009. That Order is memorialized in a May 22, 2009 minute entry on the docket for this action.

5. Podlucky's Motion was never refiled. Therefore, the Default entered against Gregory Podlucky on January 13, 2009, remains in effect.

6. On October 24, 2011, an Order was entered by this Court sentencing Gregory Podlucky to twenty (20) years in prison and ordering him to pay restitution totaling \$661 million. Pursuant to the October 24, 2011 Order, CIT is entitled to receive restitution from Gregory Podlucky in the minimum amount of \$112,000,000.

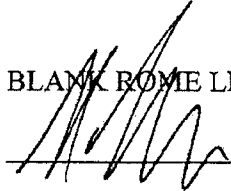
7. In light of Gregory Podlucky's conviction, incarceration, and the \$661 million restitution order entered against him, CIT has chosen not to pursue the Default.

8. The moving parties desire that all claims in this action be dismissed *with prejudice* as to the Moving Defendants and *without prejudice* as to Gregory Podlucky, with each party bearing its own costs and attorneys' fees.

9. A proposed Order of Dismissal is being submitted with this Motion.

DATED: January 9, 2013.

BLANK ROMIE LLP

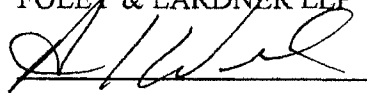


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CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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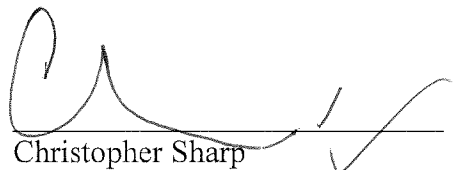
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